

**CALIFORNIA ALTERNATIVE ENERGY AND
ADVANCED TRANSPORTATION FINANCING AUTHORITY**

*Request to Approve a Time Extension for the
Initial Term of the Regulatory Agreement¹*

**CalBioGas South Tulare LLC
Application No. 20-SM022**

Tuesday, January 17, 2023

Prepared By: *Stefani Wilde, Program Analyst*

SUMMARY

Applicant – CalBioGas South Tulare LLC

Location – Tulare, Tulare County

Industry – Dairy Biogas Production

Project – New Cluster of Dairy Biogas Production Facilities (Alternative Source)

Total Amount Qualified Property Approved– \$52,471,257

Estimated Sales and Use Tax Exclusion Amount at Approval² – \$4,386,597

Amount of Time Requested –

- Requesting a one-year and six-month extension, until September 17, 2024, for the Initial Term of the Regulatory Agreement (four years and six months from the date of initial CAEATFA Board approval of March 17, 2020)

Staff Recommendation – Approval

¹ All capitalized terms not defined in this document are defined in the Sales and Use Tax Exclusion Program’s statutes and regulations.

² This amount is calculated based on the average statewide sales tax rate at the time of initial approval, which was 8.36%.

REQUEST

On March 17, 2020, the CAEATFA Board approved a Sales and Use Tax Exclusion (“STE”) award for CalBioGas South Tulare LLC (the “Applicant”) for the purchase of up to \$52,471,257 in Qualified Property to build new dairy digesters that will produce dairy biogas at a cluster of 15 dairies located in Tulare (the “Project”). The Regulatory Agreement (“Agreement”) initial term provided the Applicant with three years from the date of CAEATFA Board approval to utilize its STE award.³

As of June 2022, the Applicant has used the STE award to purchase approximately \$28 million of Qualified Property (53% of the total Qualified Property approved). The Applicant is requesting to extend the Agreement initial term by one year and six months to accommodate pandemic related delays.

The Applicant states that in addition to permitting issues, the Project schedule was significantly impacted by the COVID-19 pandemic. According to the Applicant, one of its necessary manufacturers is in Canada, and both travel and shipping from California to Canada were impacted by pandemic related restrictions. Specifically, travel restrictions delayed the completion of several essential drawings such as its process flow diagrams, piping and instrumentation diagrams, and skid layout drawings for the Project. The Applicant states its vendors for piping, heat exchanges, blowers, and gas analyzers were also impacted by pandemic related restrictions and supply chain delays. Furthermore, the Applicant experienced permitting issues with the Water Board and interconnect expansion issues with SoCalGas.

The CAEATFA Board can extend the initial term of the Agreement upon a finding that an extension is in the public interest and advances the purposes of the STE Program.⁴

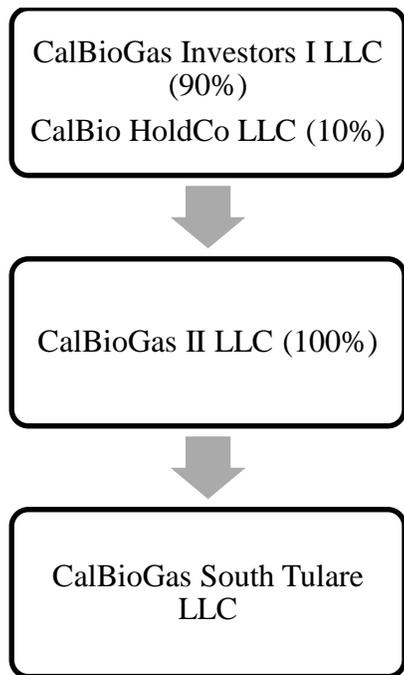
³ California Code of Regulations Title 4, Division 13, Section 10035(b)(1)

⁴ California Code of Regulations Title 4, Division 13, Section 10035(b)(1)(B)

THE APPLICANT

CalBioGas South Tulare LLC is a California limited liability company formed in 2018. The Applicant is wholly owned by CalBioGas II LLC. CalBioGas II LLC and its affiliates are a network of over 25 partners of the dairies they serve.

The ownership structure of the Applicant is as follows:



The company officers of the Applicant are:

N. Ross Buckenham, CEO
Neil Black, President
Abdulla Kagalwalla, CFO

THE PROJECT

CalBioGas South Tulare LLC received an STE to build new dairy digesters that will produce dairy biogas at a cluster of 15 dairies located in Tulare. The Applicant states it will also install gathering lines and construct a centralized upgrading plant. The Applicant will process the dairy biogas into a renewable natural gas (“RNG”) to sell directly or indirectly through distributors as R-CNG for vehicle use. According to the Applicant, it has negotiated with biogas entities to exclusively sell the biogas in California. Furthermore, The Applicant’s RNG generates Low Carbon Fuel Standard Credits and D3-RIN under the Federal Renewable Fuel Standard Program.

The Project has received grants for digester-related expenses from the California Department of Food and Agriculture in the amount of up to \$22.9 million under the Dairy Digester Research and Development grant program.

The Applicant has also received funding in the amount of \$32,329,718 for installed costs and \$1,861,812 for annual operations and maintenance as part of the Five Pilots Program authorized under SB 1383.

AGREEMENT INITIAL TERM EXTENSION REQUEST

The Applicant has requested that the initial term of the Agreement be extended from March 17, 2023 to September 17, 2024, in order to accommodate pandemic related delays.

STAFF EVALUATION

According to the Applicant, it experienced several pandemic related delays that severely impacted the timing and schedule of the Project. The Applicant states travel delays affected its gas conditioning skid manufacturer in Canada and prevented staff from traveling between California and Canada. Additional delays within the supply chain derailed the Project timeline, as several vendors were unable to receive necessary items for manufacturing final products to be shipped to the Applicant for the Project.

In addition, according to the Applicant, Water Board permits have been delayed which prevented necessary processes from moving forward. The Applicant states although there are still supply chain issues, it is diligently tracking the status of delivery for longer lead time equipment and attempting to accelerate delivery. According to the Applicant, it anticipates all projects currently in construction being complete and online by early second quarter of 2023.

The Applicant states SoCalGas also experienced delays related to necessary pipeline equipment and will not begin construction on its portion until equipment with long lead times have been delivered. The Applicant anticipates construction and commission on this portion of the Project, which has not started yet, to be complete by the fourth quarter of 2023 or early first quarter of 2024.

Based on this information, Staff believes extending the initial term of the Agreement will allow for the Project to be completed, and is, therefore, in the public interest and advances the purposes of the STE Program.

LEGAL QUESTIONNAIRE

Staff reviewed the Applicant’s responses to the questions contained in the Legal Status portion of the Application. The responses did not disclose any information that raises questions concerning the financial viability or legal integrity of this Applicant.

CAEATFA FEES

In accordance with STE Program regulations,⁵ the Applicant has paid an additional fee of \$2,000 because extending the initial term qualifies as a modification to the Applicant’s Agreement.

RECOMMENDATION

Staff recommends that the Board approve the Applicant’s request to extend the initial term of the Agreement by one year and six months to September 17, 2024, as it is in the public interest and advances the purposes of the STE Program.

ATTACHMENTS

- Attachment A: CalBioGas South Tulare LLC’s letter requesting waiver (November 16, 2022)
- Attachment B: CalBioGas South Tulare LLC’s staff summary at the time of approval

⁵ California Code of Regulations Title 4, Division 13, Section 10036(c)(1)(B)

**RESOLUTION APPROVING A TIME EXTENSION FOR
CALBIOGAS SOUTH TULARE LLC’S INITIAL TERM FOR
THE REGULATORY AGREEMENT**

January 17, 2023

WHEREAS, on March 17, 2020, the California Alternative Energy and Advanced Transportation Financing Authority (the “Authority”), a public instrumentality of the State of California, approved a Sales Tax Exclusion (“STE”) in the amount of \$52,471,257 of Qualified Property for **CalBioGas South Tulare LLC** (the “Applicant”); and

WHEREAS, within three (3) years of approval by the Authority, the Applicant must make all Qualified Property purchases (STE Program regulations Section 10035(b)(1)); and

WHEREAS, upon a finding that it is in the public interest and advances the purposes of the Program, the Authority may waive the requirement that all purchases of Qualified Property be made within three (3) years of Application approval (STE Program regulations Section 10035(b)(1)(B)); and

WHEREAS, the Applicant has requested a waiver of the requirement to purchase all of the Qualified Property within three (3) years, due to unexpected delays in the Project timeline, extending the term by one (1) year and six (6) months to September 17, 2024; and

WHEREAS, granting the waiver will allow the Project to proceed and the state to receive the anticipated environmental and economic benefits that justified the initial approval of the Project in accordance with the law, thereby advancing both the public interest and the purposes of the Program.

NOW, THEREFORE, BE IT RESOLVED by the California Alternative Energy and Advanced Transportation Financing Authority, as follows:

Section 1. The Authority finds that it is in the public interest and advances the purposes of the Program to extend the Applicant’s initial term of the Regulatory Agreement to September 17, 2024.

Section 2. This resolution shall take effect immediately upon its passage.

Attachment A: CalBioGas South Tulare LLC’s Letter Requesting Waiver (November 16, 2022)

DocuSign Envelope ID: 229627AC-B3A3-4BD6-A824-ED6E17F80EB2



Plugging dairies into a renewable future.

November 16, 2022

Dear CAEATFA Board,

California Bioenergy and the CalBioGas II LLC affiliates have greatly appreciated support from the CAEATFA STE program. The program is essential to the financial viability of our capital-intensive projects.

We are pleased that our programs continue to gain momentum including expansion opportunities.

Schedule impacts have been variable across the projects. Covid-19 impacted all projects. CalBioGas II and its affiliates are a network of over 25 partners comprised of the dairies we serve. Critical path management, as a result of Covid-19, presented unexpected schedule delays relative to the initial plan developed in 2020.

Our gas conditioning skid manufacture is located in Canada. Covid travel restrictions made it very impractical to travel from California to Canada. Early on, this delayed the completion of the basic project definition drawings Process Flow Diagrams (PFDs), Piping and Instrumentation Diagrams (P&IDs) and Skid layout drawings. Additional delays occurred as vendors for stainless steel piping, heat exchangers, blowers and gas analyzers were unable to ship their respective products to the skid fabricator as planned. These delays resulted in about an extension in the delivery schedule for the completed skids.

CalBioGas South Tulare, CalBioGas North Visalia, and CalBioGas Buttonwillow would like to request an 18-month extension of the 03/17/2023 deadline for spend of all QP. This would greatly support our ability to adapt to the complexities of the Covid-19 era.

Below, please see a summary of approval and claims through the most recent reporting period.

Cluster	ST Exclusion Approved	ST Exclusion Claimed as of 06/30/22
CalBioGas South Tulare	\$52,471,257.00	\$28,090,988.81
CalBioGas North Visalia	\$37,529,013.00	\$18,203,566.54
CalBioGas Buttonwillow	\$21,123,032.00	\$9,500,215.48

Thank you for the consideration and continued support.

Sincerely,

DocuSigned by:

Abdulla Kagalwala
CFO, California Bioenergy LLC

Attachment B: CalBioGas South Tulare LLC’s Staff Summary at the Time of Approval

Agenda Item – 4.F.7
Resolution No. 20-SM022
Application No. 20-SM022

CALIFORNIA ALTERNATIVE ENERGY AND
ADVANCED TRANSPORTATION FINANCING AUTHORITY

Request to Approve Project for Sales and Use Tax Exclusion (STE)¹

CalBioGas South Tulare LLC
Application No. 20-SM022

Tuesday, March 17, 2020

Prepared By: *Xee Moua, Program Analyst*

SUMMARY

Applicant – CalBioGas South Tulare LLC

Location – Tulare, Tulare County

Industry – Dairy Biogas Production

Project – New Cluster of Dairy Biogas Production Facilities (Alternative Source)

Value of Qualified Property - \$52,471,257

Estimated Sales and Use Tax Exclusion Amount² – \$4,386,597

Estimated Quantifiable Net Benefits – \$9,688,890

Competitive Criteria Score – 165

Application Score³ –

Fiscal Benefits Points:	3,075
<u>Environmental Benefits Points:</u>	<u>133</u>
Net Benefits Score:	3,209
<u>Additional Benefits Points:</u>	<u>115</u>
Total Score:	3,324

Staff Recommendation – Approval

¹ All capitalized terms not defined in this document are defined in the Program’s statute and regulations.

² This amount is calculated based on the average statewide sales tax rate of 8.36%.

³ Point values in the staff summary may not add up correctly due to rounding in the Application worksheet.

THE APPLICANT

CalBioGas South Tulare LLC (“CalBioGas South Tulare” or the “Applicant”) is a California limited liability company formed in 2018. The Applicant is wholly owned and managed by California Bioenergy LLC (“CalBio”). CalBio currently has five operating dairy projects and over 30 in development.

The major shareholders (10.0% or greater) of CalBio are:
John Bidart (33%)
Unigy Holdings, LLC (32%)
Go Ventures Inc. (26%)

The corporate officers of CalBioGas South Tulare are:
N. Ross Buckenham, CEO
Neil Black, President

THE PROJECT

CalBioGas South Tulare is requesting a sales and use tax exclusion to build new dairy digesters that will produce dairy biogas at a cluster of 15 dairies located in Tulare (the “Project”). The Applicant states it will also install gathering lines and construct a centralized upgrading plant. The Applicant will process the dairy biogas into a renewable natural gas (“RNG”) to sell directly or indirectly through distributors as R-CNG for vehicle use. According to CalBioGas South Tulare, it has negotiated with biogas entities to exclusively sell the biogas in California. Furthermore, CalBioGas South Tulare’s RNG generates Low Carbon Fuel Standard Credits and D3-RIN under the Federal Renewable Fuel Standard Program.

The Project has received grants for digester-related expenses from the California Department of Food and Agriculture in the amount of up to \$22.9 million under the Dairy Digester Research and Development grant program.

CalBioGas South Tulare has also received funding in the amount of \$32,329,718 for installed costs and \$1,861,812 for annual operations and maintenance as part of the Five Pilots Program authorized under SB 1383.

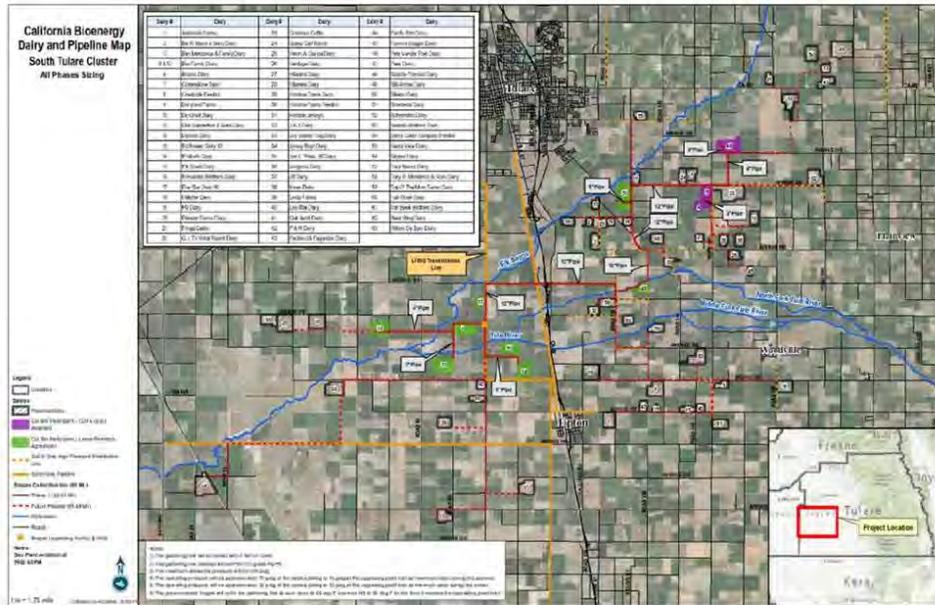


Figure 1: CalBioGas South Tulare Dairy Digester Cluster Map

ANTICIPATED COSTS OF QUALIFIED PROPERTY

The anticipated Qualified Property purchases are listed below:

Digester Systems	\$28,699,597
H2S Treatment Plant	10,736,000
Gas Upgrading System	8,962,980
Gas Gathering Line System	4,072,680
Total	<u>\$52,471,257</u>

Note: The Qualified Property purchases reported in the Application and shown here in staff's report are estimated costs. At the termination of the master regulatory agreement a finalized project equipment list will be prepared detailing the value of the Project equipment acquired and the actual tax benefit realized pursuant to Revenue and Tax Code Section 6010.8. Variance from the costs shown in the Application and in this report may occur prior to the closing due to increased costs of certain components (of the Project) over original estimates, and other reasons. In addition, such costs may vary after closing due also to increased costs, as well as common design and equipment modifications during construction, differences in equipment due to future changes in law or regulation, or for other reasons.

TIMELINE

According to the Applicant, construction of the digesters is scheduled to be completed before the end of October 2020. The Applicant represents that the gathering lines and central upgrading plant are in process to be completed by the end of 2020, and production will begin in July 2021.

COMPETITIVE CRITERIA SCORE

In the event that CAEATFA receives Applications in excess of the statutory \$100 million cap for that calendar year, the order in which the Applications shall be considered in the same month will be ranked based on five Competitive Criteria.

The Applicant received 165 Competitive Criteria points as follows:

1. **Environmental Benefits (100 points)**. The Applicant’s Project earned more than zero Total Pollution Benefits points (i.e. had environmental benefits that could be monetized and scored pursuant to the Program’s regulations⁴), therefore 100 points are awarded.
2. **Unemployment (50 of 50 points)**. The Applicant’s Project is located in Tulare County, which has an average annual unemployment rate of 9.6%. When compared to the statewide average annual unemployment rate, which was 4.1% in 2019, the dataset used in the Application, the Project location earned the Applicant an Unemployment Score of 50 points.
3. **Job Creation (0 of 75 points)**. The Applicant represents that the Project will support a total of 32 production-related jobs at its Facility. CAEATFA estimates that approximately three of these jobs will be attributable to a marginal increase in jobs created due to the STE. Based on the amount of STE per estimated number of jobs created, the Applicant earned zero points.
4. **California Headquarters (15 points)**. The Applicant has a California Corporate Headquarters, therefore 15 points are awarded.
5. **Natural Disaster Relief (0 points)**. The Project is not to rebuild or relocate the Applicant’s Facility due to a fire, flood, storm, or earthquake identified in the state of emergency proclamation made by the California State Governor within two years of the time of application, therefore zero points are awarded.

⁴ California Code of Regulations Title 4, Division 13, Section 10033(e)(4)

PROJECT EVALUATION

NET BENEFITS

The total cost of the Qualified Property purchases is anticipated to be \$52,471,257 and the total quantifiable net benefits are valued at \$9,688,890 for the Project. The Project received a Total Score of 3,324 points, which exceeds the required 1,000-point threshold, and a total Environmental Benefits Score of 133 points, which exceeds the 20-point threshold.

- A. Fiscal Benefits (3,075 points).** The net present value of the total fiscal benefits over the lifetime of the Qualified Property is derived from the Applicant’s sales taxes, personal income taxes paid by the firm’s employees, firm taxes on profits, property taxes, and other indirect fiscal benefits of the Applicant, which amounts to \$13,489,899, resulting in a Fiscal Benefits score of 3,075 points for the Project.
- B. Environmental Benefits (133 points).** The Project will result in \$585,588 of total pollution benefits over the life of the Project resulting in an Environmental Benefits Score of 133 points for the Project. These benefits derive from the production of dairy biogas, which offsets the need for use of fossil methane and the avoidance of methane emissions that would otherwise be released by the manure.
- C. Additional Benefits (115 points).** Applicants may earn additional points for their Total Score. The Applicant submitted information and received 115 additional points.

 - 1. Production Jobs (0 of 75 points).** The Applicant represents that the Project will support a total of 32 production-related jobs at its Facility. CAEATFA estimates that approximately three of these jobs will be attributable to a marginal increase in jobs created due to the STE. Based on the amount of STE per estimated number of jobs created, the Applicant earned zero points.
 - 2. Construction Jobs (40 of 75 points).** The Applicant represents that the Project will support a total of 211 construction jobs at its Facility. CAEATFA estimates that approximately 17 of these jobs will be attributable to a marginal increase in jobs created due to the STE. Based on the amount of STE per estimated number of jobs created, the Applicant earned 40 points.
 - 3. Unemployment (50 of 50 points).** The Applicant’s Project is located in Tulare County, which has an average annual unemployment rate of 9.6%. When compared to the statewide average annual unemployment rate which was 4.1% in 2019, the dataset used in the Application, the Project location earned the Applicant an Unemployment Score of 50 points.
 - 4. Workforce Partnerships (25 points).** The Applicant has a partnership with College of the Sequoias and Fresno State University for the purpose of assisting in the training of potential future workers.

STATUS OF PERMITS/OTHER REQUIRED APPROVALS

According to the Applicant, it has sought and received majority of the California Environmental Quality Act permits needed for the dairies. The Applicant has provided that all air, water, and building permits are in process and expected to be secured throughout 2020.

LEGAL QUESTIONNAIRE

Staff reviewed the Applicant's responses to the questions contained in the Legal Status portion of the Application. The responses did not disclose any information that raises questions concerning the financial viability or legal integrity of this Applicant.

CAEATFA FEES

In accordance with CAEATFA Regulations,⁵ the Applicant has paid CAEATFA an Application Fee of \$10,000 and will pay CAEATFA an Administrative Fee of up to \$209,885.03.

RECOMMENDATION

Staff recommends approval of Resolution No. 20-SM022 for CalBioGas South Tulare LLC's purchase of Qualified Property in an amount not to exceed \$52,471,257, anticipated to result in an approximate sales and use tax exclusion value of \$4,386,597.

⁵ California Code of Regulations Title 4, Division 13, Section 10036

**RESOLUTION APPROVING AND AUTHORIZING EXECUTION OF A MASTER
REGULATORY AGREEMENT WITH CALBIOGAS SOUTH TULARE LLC**

March 17, 2020

WHEREAS, the California Alternative Energy and Advanced Transportation Financing Authority (the “Authority” or “CAEATFA”) has received the Application of **CalBioGas South Tulare LLC** (the “Applicant”), for financial assistance in the form of a master regulatory agreement (the “Agreement”) regarding tangible personal property utilized in an Advanced Manufacturing process or for the design, manufacture, production or assembly of Advanced Transportation Technologies or Alternative Source products, components, or systems (“Qualified Property”) as more particularly described in the staff summary and in the Applicant’s Application to the Authority (collectively, the “Project”); and

WHEREAS, the Applicant has requested the Authority to enter into the Agreement to acquire Project equipment with an estimated cost not to exceed \$52,471,257 over a period of three years; and

WHEREAS, the Applicant believes that this form of financial assistance will enable it to avail itself of the benefits of an exclusion from sales and use taxes relative to the Qualified Property pursuant to California Revenue and Taxation Code Section 6010.8; and

WHEREAS, approval of the terms of the Agreement and authority for the Executive Director, Deputy Executive Director, or Chair of the Authority to execute the necessary documents to effectuate the Agreement is now sought;

NOW, THEREFORE, BE IT RESOLVED by the California Alternative Energy and Advanced Transportation Financing Authority, as follows:

Section 1. The Project constitutes a “project” within the meaning of Public Resources Code Section 26003(a)(8)(B).

Section 2. The requested master regulatory agreement constitutes “financial assistance” within the meaning of Public Resources Code Section 26003(a)(6).

Section 3. The Applicant is a “participating party” within the meaning of Public Resources Code Section 26003(a)(7).

Section 4. The Executive Director, Deputy Executive Director, or Chair of the Authority (the “Authorized Signatories”) are hereby authorized for and on behalf of the Authority to approve any changes to the Project as the Executive Director shall deem appropriate, provided that the amount of the Qualified Property to be purchased may not be increased above the amount approved by the Authority.

Agenda Item – 4.B.11
Resolution No. 20-SM022-01

Agenda Item – 4.F.7
Resolution No. 20-SM022
Application No. 20-SM022

Section 5. The proposed form of the Agreement between the Applicant and the Authority, as filed with the Authority prior to this meeting, is hereby approved. The Authorized Signatories are hereby authorized and directed, for and on behalf and in the name of the Authority, to execute, acknowledge and deliver to the Applicant the Agreement in substantially the form filed with or approved by the Authority, with such insertions, deletions or changes therein as the Authorized Signatory executing the same may require or approve, and with particular information inserted therein in substantial conformance with the staff summary and in the Applicant's Application to the Authority, such approval to be conclusively evidenced by the execution and delivery thereof. The Authority understands and agrees that pursuant to the terms of the Agreement, the obligations of the Applicant may, under some circumstances, be carried out or assumed by a successor or assignee entity, or by an affiliate of the Applicant.

Section 6. Each of the Authorized Signatories, acting alone, is hereby authorized and directed to do any and all ministerial acts, including (without limitation) the execution and delivery of any and all documents and certificates they may deem necessary or advisable in order to consummate the Agreement and otherwise effectuate the purposes of this Resolution.

Section 7. The Applicant shall assure CAEATFA that all Qualified Property listed in the semi-annual reports pursuant to the Agreement shall be installed, maintained and operated in compliance with all applicable local, state and federal laws.

Section 8. The Agreement shall only apply to Qualified Property that the Applicant certifies will be installed, maintained and operated at facilities within the State of California.

Section 9. The adoption by the Authority of this Resolution for the Applicant shall not be referred to in any application before any governmental agency as evidence of the feasibility, practicality or suitability of the Project or in any application for any required permission or authority to acquire, construct or operate the Project.

Section 10. This Resolution is effective immediately and will remain in full force and effect unless the Regulatory Agreement, as defined in CAEATFA Regulations Section 10035(a), is not executed within thirty (30) days of the date of this Resolution. The Executive Director may extend the thirty days if necessary.